

## **Michigan Indigent Defense Commission Meeting Minutes**

The meeting was held remotely via Zoom in compliance with the Open Meetings Act and Public Act 228 of 2020 to reduce transmission of COVID-19 and protect the health of Commissioners, MIDC staff and members of the public interested in attending the meeting. The MIDC website and meeting notice included information for members of the public on how to participate.

October 20, 2020

Time: 9:00 am

### **Commission Members Participating**

Consistent with Public Act 228 of 2020, Commissioners were asked to identify the county, city, town or village and state from which they are participating during roll call. All commissioners participated remotely. That information is reflected below in parentheses following each Commissioner's name.

- Michael Puerner, Chair, (Kent County, Michigan)
- Joshua Blanchard (Greenville, Montcalm County, Michigan)
- Tracy Brame (Grand Rapids, Kent County, Michigan)
- Kimberly Buddin (Washtenaw County, Michigan)
- Judge Jeffrey Collins (Wayne County, Michigan)
- Nathaniel Crampton (Jackson, Jackson County, Michigan)
- Andrew DeLeeuw (Washtenaw County, Michigan)
- Judge James Fisher (Grand Rapids, Kent County, Michigan), (joined at 10:00 am)
- Christine Green (Washtenaw County, Michigan)
- Joseph Haveman (Grand Rapids, Kent County, Michigan)
- David Jones (Detroit, Wayne County, Michigan)
- James Krizan (Lincoln Park, Wayne County, Michigan)
- Judge Kristina Robinson Garrett (Detroit, Wayne County, Michigan), (joined at 10:07 am)
- Margaret McAvoy (Mount Pleasant, Isabella County, Michigan)
- Tom McMillin (Oakland Township, Oakland County, Michigan)
- John Shea (Dexter Township, Washtenaw County, Michigan)
- William Swor (Detroit, Wayne County, Michigan)
- Gary Walker (Chocolay Township, Marquette County, Michigan)

### **Commission Members Absent:**

Cami Pendell (ex-officio)

### **Staff Members Participating**

Loren Khogali, Barbara Klimaszewski, Marla McCowan, Kelly McDoniel, Rebecca Mack, Deborah Mitchell, Susan Prentice-Sao, Christopher Sadler, Jonah Siegel, Nicole Smithson, Kristen Staley, Melissa Wangler and Marcela Westrate

Chair Puerner called the Michigan Indigent Defense Commission (“MIDC” or “the Commission”) meeting to order at 9:02 am.

### **Introduction of Commission Members and Guests**

Chair Puerner welcomed attendees to the meeting.

Ms. Khogali introduced Kimberly Tandy and Mary Ann Scali of the National Juvenile Defender Center and Scott Dzurka, Stephan Vitvitsky and Erin Lammers from Public Sector Consultants.

### **Public Comment**

Melanie Young indicated that she was participating in the meeting and able to answer any questions regarding Monroe County’s plan.

Marianne Talon, Dawn Van Hoek, Drew Van de Grift and Robin Dillard-Russaw offered comments on behalf of Wayne County.

Lillian Diallo offered comments on behalf of the Wayne County Criminal Defense Bar Association.

Eric Wilson offered comments on behalf of Madison Heights.

Kareem Johnson offered comments on behalf of Jackson County.

### **Approval of the Agenda**

There were no additions to the agenda. Judge Collins moved to approve the agenda as presented, Commissioner Swor seconded. The motion carried.

### **Consent Agenda**

Commissioner Walker moved that the consent agenda containing the minutes from the August and September meetings be adopted. Commissioner Jones seconded. The motion carried.

### **Chair Report**

Chair Puerner thanked MIDC staff members for their hard work over the last several months. He thanked Ms. Smithson for her work on the Eligibility Screening Standard. He thanked Governor Whitmer, the Department of Licensing and Regulatory Affairs (LARA), the State Budget Office, and the legislature for their support of the Commission’s fiscal needs during the appropriations process.

### **Executive Director Report**

Ms. Khogali provided an overview of the written report given to members prior to the meeting. She updated the Commission on MIDC’s appropriations for the 2021 fiscal year that began October 1, 2020. State departments are still under a hiring freeze, Ms. Khogali is working with LARA to receive exemptions to hire two positions. The first position is the Grant Analyst which has been vacant since May. The second position is a new Training Analyst position that was approved by the Civil Service Commission shortly before the hiring freeze was implemented.

LARA is expected to sign the independence from the judiciary standard this month.

Amendments made to the MIDC Act in 2018 required the MIDC to look at local contribution and present a report to the legislature. Public Sector Consultants was chosen after going through LARA's RFP process. Ms. Khogali thanked Bridgette Gransden, Midland County Administrator and Connie Bohatch, City of Grand Rapids, who participated as part of RFP committee representing local systems. Mr. Dzurka from Public Sector Consultants introduced himself and his firm to the Commission.

### **Commission Business**

#### **Presentation on National Juvenile Defender Center Michigan Assessment**

Ms. Khogali introduced Ms. Tandy, who provided an overview of the Michigan assessment that was recently completed by the National Juvenile Defender Center.

#### **Update on the Michigan Joint Task Force on Jail and Pretrial Incarceration**

Commissioner Buddin updated the Commission on legislation that would begin to codify the recommendations in the Task Force's final report.

#### **Report of Eligibility Screening Standard Committee**

Ms. Khogali and Ms. Smithson provided an overview of the work done after the public hearing. Ms. Khogali will work with LARA to determine the timing for submitting the standard for the Department's review if the Commission approves the standard.

Commissioner Shea moved that the Commission approve the standard for presentation to LARA and request that LARA approve it, leaving discretion as to the timing of requested approval to the Executive Director. Commissioner Walker seconded the motion. The motion carried.

The meeting recessed from 11:02 until 11:12. Commissioner Haveman left during the recess.

#### **Recommendation by Executive Committee to Approve Amendment Allowing Funding Units to Continue to Spend Unexpended FY 20 Funds**

Ms. Khogali provided an overview of the amendment and its purpose. The Commission's Executive Committee reviewed the document and recommends approval. Commissioner Walker moved that the Commission adopt the Executive Committee's recommendation and the amendment be approved. The motion carried.

#### **Recommendation of Executive Committee to Extend Wayne County FY20 Planning Grant**

Ms. Khogali provided an overview of the planning grant awarded to Wayne County in FY 20. The current end date for that grant is December 31, 2020. The County requested that the grant be extended until all funds are expended. The Commission's Executive Committee recommends that the document be extended until February 28, 2021.

Judge Fisher moved that the Executive Committee's recommendation be adopted and that the Wayne County planning grant be extended until February 28, 2021. Commissioner Green seconded. After discussion, Chair Puerner called for a roll call vote. The motion carried.

The following Commissioners voted yes: Chair Puerner, Commissioners Blanchard, Brame, Buddin, Judge Collins, Commissioners Crampton, DeLeeuw, Judge Fisher, Commissioners Green, Krizan, McMillin, Judge Robinson Garrett, Commissioners Swor and Walker.

Commissioners McAvoy and Shea voted no on the motion. Commissioner Shea clarified after the vote that he supported the extension but voted no due to the date to which the extension was limited. Commissioner McAvoy affirmed that she opposed the motion on the same basis.

### **Plan Changes**

Kent County made changes to its FY20 compliance plan to modify the start date, compensation, and hours of work for the indigent defense administrator/attorney position in that County. These changes did not require Commission approval.

### **Budget Adjustments**

Ms. Mack approved budget adjustments for the following systems, these adjustments did not impact the total system cost:

- 46<sup>th</sup> District Court – Southfield
- Macomb County
- Bay County
- Clare and Gladwin Counties
- Isabella County
- Mason County
- Saginaw County
- Alger County
- Benzie and Manistee Counties
- Marquette County
- Clinton County
- Gratiot County
- Jackson County
- Lenawee County
- Washtenaw County
- 23<sup>rd</sup> District Court – Taylor
- 28<sup>th</sup> District Court – Southgate
- Branch County
- Ionia County
- Kent County
- Ottawa County

Ms. Mack denied a budget request made by the 39<sup>th</sup> District Court – Roseville/Fraser.

### **Review of FY 21 Compliance Plan Submissions**

#### Committee meetings

The System Change Committee chaired by Commissioner Walker met virtually on October 15. The committee reviewed the staff recommendations for the following plans:

- Alpena, Montmorency
- Barry
- Eastpointe
- Romulus (weekend arraignments change only)
- Kent County 3<sup>rd</sup> class district courts

Commissioner Walker gave the Commission an overview of the meeting.

The Increase to Direct Costs Committee chaired by Commissioner Swor met virtually on October 15. The committee reviewed the staff recommendations for the following plans:

- Calhoun
- 17<sup>th</sup> District Court - Redford (not recommended for approval)
- 46<sup>th</sup> District Court - Southfield
- Ionia
- Iosco
- Jackson
- Kent
- Lapeer
- Monroe

- Muskegon
- Washtenaw

Commissioner Swor gave the Commission an overview of the meeting.

The General Increase to Plan Committee chaired by Commissioner Green met on October 15.

The committee reviewed the staff recommendations for the following plans:

- Allegan/Van Buren
- Barry
- 25<sup>th</sup> District Court - Lincoln Park
- 46<sup>th</sup> District Court - Southfield
- 50<sup>th</sup> District Court - Pontiac
- 59s and 62s District Courts
- 61<sup>st</sup> District Court - Grand Rapids
- Ionia
- Jackson
- Kent
- Kent - ALL (planning grant/feasibility study)
- Muskegon
- Washtenaw

Commissioner Green provided an overview of the meeting. She highlighted potential revisions to the Grant Manual that might be helpful to the Commission as it reviews plans.

#### Substantive Review of Compliance Plans and Cost Analyses

Ms. McCowan provided an overview of the resubmitted costs analyses for the 17<sup>th</sup> District Court – Redford and the 43-3 District Court – Madison Heights. The plans for both systems were previously approved. The staff recommendation is to disapprove both resubmitted cost analyses.

Commissioner McMillin moved that the staff recommendation be adopted and that the cost analyses resubmitted by the 17<sup>th</sup> District Court – Redford and the 43-3 District Court – Madison Heights be disapproved. Commissioner Swor supported. The motion carried.

The Commission turned to consideration of the systems whose plan and cost analysis were previously disapproved. The staff recommendation is that both the resubmitted plan and cost analysis for the systems listed below be approved:

- Allegan and Van Buren Counties
- 20<sup>th</sup> District Court - Dearborn Heights
- 37<sup>th</sup> District Court - Warren and Centerline
- 46<sup>th</sup> District Court - Southfield
- Grosse Pte. Woods
- Midland County
- 38<sup>th</sup> District Court - Eastpointe
- Barry County
- Calhoun County
- 61<sup>st</sup> District Court - Grand Rapids
- 62 a District Court - Wyoming (incl. 59-1, 59-2, 62B)
- Kent – 17<sup>th</sup> Circuit & 63<sup>rd</sup> District
- Muskegon County

Ms. McCowan provided an overview of each plan. Ms. Prentice-Sao, Ms. McDoniel, and Ms. Klimaszewski answered questions from the Commission.

Commissioner Walker moved that the resubmitted plans and cost analyses for the 13 systems listed above be approved. Commissioner Green seconded. The motion carried.

The Commission moved to consideration of systems whose plans were previously approved but whose costs analyses were previously rejected. The staff recommendation is to approve the resubmitted cost analysis for the systems listed below:

- 25<sup>th</sup> District Court – Lincoln Park
- 34<sup>th</sup> District Court – Romulus
- 50<sup>th</sup> District Court – Pontiac
- 51<sup>st</sup> District Court – Waterford
- Lapeer County
- Washtenaw County
- Alpena County
- Montmorency County
- Ionia County
- Iosco County
- Jackson County
- Monroe County

Ms. McCowan provided an overview of each system. Ms. Prentice-Sao, Ms. Klimaszewski and Ms. Staley answered questions from the Commission.

Commissioner Shea moved that the staff recommendation be adopted and that the resubmitted cost analyses for the 12 systems listed above be approved. Commissioner Swor seconded. The motion carried.

#### Report of the Court Rules Committee

The committee met October 6 to consider changes to the court rules to reflect the Commission's counsel at first appearance and eligibility standards. The draft was provided to Commissioners for their review and has been forwarded to the State Court Administrator for continued discussion. The committee discussed changes to MCR 8.120 proposed by a member of the State Bar of Michigan's Representative Assembly. This proposal has been tabled by the Representative Assembly until April of 2021. MIDC will continue to monitor this proposal and the committee will reconvene as necessary.

The Commission's next meeting is December 15, 2020.

Judge Fisher moved to adjourn. Commissioner Shea seconded. The motion carried. The meeting adjourned at 12:43 pm.

Respectfully submitted,  
Marcela Westrate